

August 14, 2018

Todd E. Kiser, *Commissioner*
Utah Department of Insurance
Room 3110 State Office Building
450 N. Main St.
Salt Lake City, UT 84114

RE: DAR File No. 43055 – Rule R590-277

Dear Commissioner Kiser:

I am writing on behalf of the American Society of Plastic Surgeons (ASPS) regarding proposed rule R590-277. ASPS is the largest association of plastic surgeons in the world, representing more than 7,000 members and 94 percent of all board-certified plastic surgeons in the United States. Our mission is to advance quality care for plastic surgery patients and promote public policy that protects patient safety.

We appreciate the Department of Insurance's (Department) effort to define cosmetic surgery. However, cosmetic surgery and reconstructive surgery are fundamentally different. Reconstructive surgery is performed to treat structures of the body affected aesthetically or functionally by congenital defects, developmental abnormalities, trauma, infection, tumors or disease. It is generally done to improve function and ability, but may also be performed to achieve a more typical appearance of the affected structure. Cosmetic plastic surgery includes surgical and nonsurgical procedures that enhance and reshape structures of the body to improve appearance and confidence. These definitions are derived from the American Medical Association's definitions of cosmetic and reconstructive surgery, which have been in existence for over two decades.¹

R590-277-3(3)(b)(ii) recognizes the fact that reconstructive treatment following medically necessary surgery is not cosmetic in nature, and we ask that the Department update the rest of the language in R-590-277-3(3) as follows:

- (a) "Cosmetic surgery" ~~or "reconstructive surgery"~~ means any surgical procedure performed primarily to improve physical appearance.
- (b) Cosmetic surgery ~~or reconstructive surgery~~ does not include surgery, which is necessary:
 - (i) to correct damage caused by injury or sickness
 - (ii) for reconstructive treatment following medically necessary surgery
 - (iii) to provide or restore normal bodily function
 - (iv) to correct a congenital disorder or developmental abnormality that has resulted in a functional defect

R590-277-4 includes a listing of prohibited policy provisions, as well as limitations or exclusions. However, we believe that this section could be strengthened to better protect Utahns who require reconstructive surgery, such as those who undergo breast reconstruction surgery following mastectomy or lumpectomy.

¹ The American Medical Association, Policy Compendium, H-475.992, "Definition of "Cosmetic" and "Reconstructive" Surgery" www.ama-assn.org. Accessed August 2018.

Breast reconstruction usually entails more than one surgery. For that reason, the current proposed language could result in some women receiving an incomplete reconstruction, suffering from difficult-to-camouflage asymmetries, or having pain or discomfort that could be easily remedied by another surgical intervention. Given the fact that the aforementioned – along with myriad other – courses of medical treatment warrant multiple procedures, the department needs to amend the proposal to include repeat reconstructive surgeries under R590-277-4(2)(m) as follows:

(m) cosmetic surgery; reversal, revision, repair, ~~complications,~~ or treatment related to a non-covered cosmetic surgery. This exclusion does not apply to reconstructive surgery when the service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved party, including removal of breast implants as part of the evaluation and treatment of an implant-associated cancer or breast cancer; ~~or~~ reconstructive surgery because of congenital disease or anomaly of a covered dependent child that has resulted in a functional defect; or multi-step reconstructive surgeries.

For the reasons outlined above, we urge you to amend proposed rule R590-277 to ensure adequate coverage of necessary reconstructive surgical procedures for Utahns. Thank you for your consideration of our position on this important issue. Please do not hesitate to contact Patrick Hermes, Director of Advocacy and Government Relations, at phermes@plasticsurgery.org or (847) 228-3331 with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lynn Jeffers', with a stylized, cursive script.

Lynn Jeffers, MD
Board Vice President of Advocacy & Health Policy
American Society of Plastic Surgeons